

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SHEAR MOBILITY, LLC d/b/a  
AFFORDABLE GROOMING SHEARS,

Plaintiff,

v.

18-CV-163  
DECISION AND ORDER

MAURICE STOLL and  
SHARON STOLL,

Defendants.

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On January 31, 2018, the plaintiff commenced this action seeking damages and a declaratory judgment in connection with alleged wrongful conduct involving the plaintiff's website. Docket Item 1. On April 16, 2018, this Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 15. On April 13, 2018, the defendants moved to dismiss the complaint for lack of personal jurisdiction, Docket Item 14; on June 4, 2018, the plaintiff responded, Docket Item 20; and on July 2, 2018, the defendants replied, Docket Item 23. On October 10, 2018, Judge McCarthy issued a Report and Recommendation ("R&R") recommending that the defendants' motion be denied. Docket Item 24. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's

recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to deny the defendants' motion to dismiss the complaint for lack of personal jurisdiction.

For the reasons stated above and in the R&R, the defendants' motion to dismiss, Docket Item 14, is DENIED. The case is referred back to Judge McCarthy for further proceedings consistent with the referral order of April 16, 2018, Docket Item 15.

SO ORDERED.

Dated:           March 14, 2019  
                  Buffalo, New York

s/ Lawrence J. Vilardo  
LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE